

**Non-Fatal Officer Involved Shooting of Victor Lopez
Los Angeles Police Department**

Officer Luis Alvarez, #42787

J.S.I.D. File #22-0334



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

February 28, 2024

MEMORANDUM

TO: CAPTAIN OMAR BAZULTO
Los Angeles Police Department
Force Investigation Division
100 West First Street, Suite 431
Los Angeles, California 90012

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Non-Fatal Officer Involved Shooting of Victor Lopez
J.S.I.D. File #22-0334
F.I.D. File #F049-22

DATE: February 28, 2024

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 22, 2022, non-fatal shooting of Victor Lopez by Los Angeles Police Department (LAPD) Officer Luis Alvarez. We conclude there is insufficient evidence to prove beyond a reasonable doubt that Alvarez did not act in lawful self-defense at the time he fired his weapon.

The District Attorney's Command Center was notified of this shooting on September 23, 2022, at approximately 12:00 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through by LAPD personnel.

The following analysis is based on body worn camera video (BWV), surveillance video, witness statements, and reports. The involved officer did not provide a voluntary statement, and his compelled statement was not considered. These materials were submitted to this office by the LAPD Force Investigation Division on October 18, 2023.

INTRODUCTION

On September 18, 2022, at approximately 10:22 p.m., Officers Luis Alvarez and Tomas Perez were on patrol in uniform and driving a marked patrol car when they observed Victor Lopez riding a bicycle on Imperial Highway. They mistakenly believed that Lopez was the suspect in a shooting days prior. Lopez abandoned his bicycle and fled on foot into the Nickerson Gardens Housing Development.

With Alvarez in the lead, the officers chased Lopez, who ignored commands to stop and instead disappeared between a dumpster and cargo container located at the fenced perimeter of the housing complex. According to BWV, Alvarez ran toward the blind corner of the dumpster. Lopez, out of view, discharged a pistol, causing Alvarez to fire three rounds in response, striking

Lopez once in the leg. According to surveillance footage, Lopez ran behind the cargo container holding a pistol, climbed a metal fence, and escaped the complex through an alley.

Lopez dropped or abandoned the pistol at a gated entrance to a nearby apartment building. Lopez barricaded himself in an adjacent business. He was taken into custody several hours later and treated for a gunshot wound to the leg.

Investigators recovered the abandoned pistol, on which was found Lopez's DNA. They recovered a matching casing and loaded magazine from the area between the dumpster and cargo container. BWV captured the incident, but Lopez is not visible at the time he fired his gun nor at the time Alvarez returned fire.

In connection with this incident, on April 27, 2023, Lopez pleaded no contest in case number TA158470 to one count of felony assault with a semiautomatic firearm on a peace officer, prior to preliminary hearing. He was sentenced to 10 years in the state prison.

FACTUAL ANALYSIS

Video Footage

BWV footage shows both officers exit their patrol car and run after Lopez, into the Nickerson Gardens complex.

Alvarez leads the chase. Alvarez draws his duty pistol as he runs. Several times he commands Lopez to stop. Lopez ignores Alvarez's commands and continues to run for approximately one minute until he reaches the western edge of the complex, bound by a metal fence, beyond which is an alley and adjacent apartment complex. Lopez runs out of sight between a blue dumpster and beige cargo container.

One gunshot is heard as Alvarez runs toward the blind corner of the blue dumpster. Lopez is out of view of the camera. The gunshot is not from Alvarez.



Figure 1: Alvarez BWV; Alvarez with gun drawn runs after Lopez, out of view, as first gunshot rings out.

Alvarez runs past the corner of the dumpster. Lopez is visible for an instant, stepping behind the beige cargo container and disappearing from view. Lopez's back is to Alvarez. Lopez's left hand is visible at shoulder height holding the cargo container. His right hand is not visible. A gun cannot be seen. Perez, a short distance away, does not see or record footage of the shooting.



Figure 2: Lopez comes into view for an instant as Alvarez rounds corner of dumpster.

About one second after the first shot is heard, Alvarez returns fire: three rounds in about one and one half seconds in Lopez's direction. Lopez cannot be seen in the footage at the time Alvarez fires his duty pistol.



Figure 3: Alvarez fires third and final shot.

A surveillance camera from the adjacent apartment building captures Lopez's actions behind the cargo container. Lopez holds a dark colored object consistent with a pistol in his right hand. After pausing and looking in Alvarez's direction (out of view), Lopez turns and climbs over the metal fence and escapes into the alley.

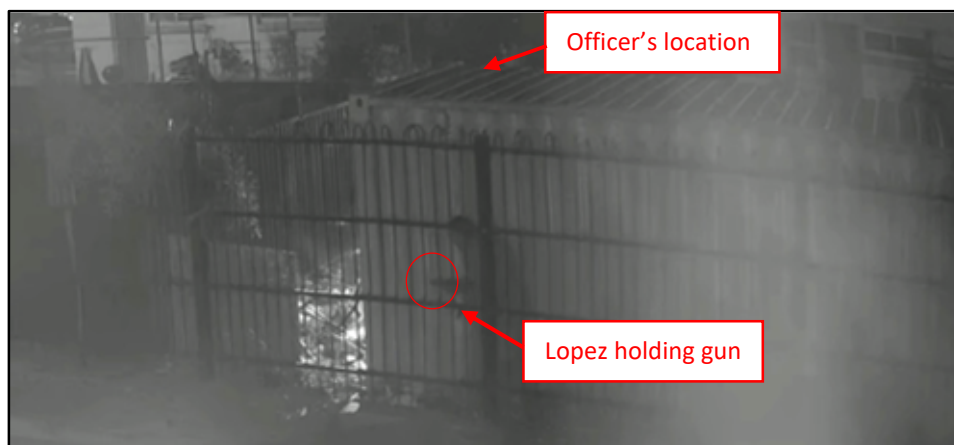


Figure 4: Apartment surveillance; Lopez pauses behind cargo container, appearing to hold a gun in his right hand and look in Alvarez's direction; Alvarez's flashlight is visible left of Lopez.

Alvarez maintains cover at the corner of the dumpster and yells for Lopez to stop. He tells Perez, "He shot at me." The officers try to set up containment around the cargo container (but do not realize Lopez has climbed over the fence and escaped).

After backup units arrive, officers learn from witnesses in the adjacent apartment building that Lopez ran inside the building hallways. According to BWV, officers discover a semiautomatic pistol lying on the ground at a gated and locked entrance to the building's curtilage (surveillance footage retrieved later shows Lopez climb the gate at that location).



Figure 5: BWV; Officer photographing Lopez's gun in the location it was found; photograph of gun inset.

Lopez barricaded himself in a nearby business. After a standoff lasting several hours, Officers arrested him. Paramedics transported him to a hospital, where he was treated for a non-life-threatening through-and-through gunshot wound to his left thigh.

Physical Evidence



Figure 6: Evidence recovered from location of incident.

At the hospital, investigators obtained a gunshot residue (GSR) sample from Lopez's hands. The sample was tested and did not contain gunshot particles. Whether Lopez was in the environment of a discharged firearm was "inconclusive" according to LAPD criminalists.

The gun recovered near the apartment building gate was an operable, unloaded 9mm semiautomatic pistol. A ten round magazine containing 9 rounds headstamped "TULAMMO 9mm LUGER" and a discharged casing with the same headstamp were recovered in the space between the dumpster and cargo container. Ballistics analysis determined that the casing was fired from the pistol. DNA swabs taken from the pistol were compared to a buccal swab from Lopez and found to match.

Investigators recovered near the dumpster three 9mm casings from Alvarez's duty pistol. Investigators located one bullet strike to the cargo container and two to the wall of the adjacent apartment building, consistent in location with Alvarez's firing position. Investigators located no bullet strikes from Lopez's apparent discharge.

Statements

According to Officer Perez's compelled statement to investigators, he and Alvarez were driving on Imperial Highway approaching Central Avenue when they observed a man on a bicycle (Lopez) whom they believed to be a suspect wanted in connection with a shooting days prior (Lopez was not the suspect). The man abandoned his bicycle and fled on foot into Nickerson

Gardens. Perez stated he was ten to 15 feet from Alvarez when he heard, but did not see, the gunshots.

THE LAW

A peace officer is justified in using deadly force when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or to another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code section 835a(c)(1)(A) & (B).

Deadly force shall be used “only when necessary in defense of human life,” and officers “shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Penal Code section 835a(a)(2).

A threat of death or serious bodily injury is ‘imminent’ when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. Penal Code section 835a(e)(2).

When considering the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force, are taken into consideration. Penal Code section 835a(a)(4) & (e)(3). The peace officer’s decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code section 835a(a)(4).

LEGAL ANALYSIS

Alvarez and Perez observed Lopez riding a bicycle on Imperial Highway. They tried to stop him, incorrectly believing that he was the suspect of a shooting days prior. Lopez abandoned his bike and fled on foot into the housing complex. Both officers gave chase. Lopez ignored repeated commands to stop.

According to BWV, Lopez disappeared from camera view between a dumpster and cargo container. Then, a gunshot rang out. Alvarez fired three rounds in response as he passed beyond the corner of the dumpster, just as Lopez disappeared behind the cargo container. According to surveillance footage, Lopez stood behind the cargo container holding a gun. As captured on BWV, Alvarez told Perez seconds after the shooting that Lopez had shot at him.

Investigators later recovered a pistol containing Lopez's DNA, and a casing ballistically matched to that pistol, located between the dumpster and cargo container.

Thus, while the available evidence shows that Lopez fired a pistol, it does not conclusively confirm or contradict Alvarez's statement that Lopez fired *at* him. Lopez was hidden from the camera's view when he discharged the pistol.

CONCLUSION

Considering the totality of the circumstances known to Officer Alvarez at the time, including those leading up to the incident, because the evidence proves that Lopez discharged a pistol but cannot confirm or contradict Alvarez's statement that Lopez fired at him, there is insufficient evidence to prove beyond a reasonable doubt that Alvarez did not act in lawful self-defense at the time he used deadly force against Lopez.